

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Sep 30, 2020

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

BEDROCK MASONRY, INC,
United States for the benefit and use
of Bedrock Masonry, Inc., an Idaho
corporation,

Plaintiff,

v.

INNOVATIVE CONSTRUCTION &
DESIGN LTD, a Washington
corporation; BERKLEY
INSURANCE COMPANY, a
Delaware corporation,

Defendants.

NO: 2:19-CV-429-RMP

ORDER DENYING DEFENDANT
INNOVATIVE CONSTRUCTION &
DESIGN LTD'S MOTION FOR
RECONSIDERATION

BEFORE THE COURT is Defendant Innovative Construction & Design
Limited's ("ICD's") Motion for Reconsideration, ECF No. 21, of the Court's
decision to consolidate two cases under the above-captioned matter. The Court has
reviewed Defendant's Motion, ECF No. 21, Plaintiff Bedrock Masonry, Inc.'s
Response, ECF No. 22, the remaining record, the relevant law, and is fully informed.

ORDER DENYING DEFENDANT INNOVATIVE CONSTRUCTION & DESIGN
LTD'S MOTION FOR RECONSIDERATION ~ 1

1 Defendant ICD did not file a reply within the hearing timeframe provided by LCivR
2 7.

3 **BACKGROUND**

4 On July 21, 2020, this Court granted Plaintiff's Motion to Consolidate Case
5 Nos. 2:19-cv-429-RMP and 2:19-cv-375-SMJ. ECF No. 20. Plaintiff Bedrock and
6 the Plaintiff in the consolidated case, Monster Concrete LLC, entered separate
7 subcontracts with ICD, which was acting as general contractor for the Bureau of
8 Reclamation's Grand Coulee Dam Fire Station, Contract No. R16PC00143 (the
9 "Project"). *See id.* at 2. After considering whether consolidation would serve the
10 interests of Fed. R. Civ. P. 42(a), the Court found that consolidation was prudent and
11 warranted in this matter. *Id.* at 5–6.

12 **DISCUSSION**

13 District courts have inherent jurisdiction to modify, alter, or revoke a prior
14 order. *United States v. Martin*, 226 F.3d 1042, 1049 (9th Cir. 2000).
15 "Reconsideration [of a prior order] is appropriate if the district court (1) is presented
16 with newly discovered evidence, (2) committed clear error or the initial decision was
17 manifestly unjust, or (3) if there is an intervening change in controlling law." *Sch.*
18 *Dist. No. 1J v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993).

19 Reconsideration is an "extraordinary remedy, to be used sparingly in the
20 interests of finality and conservation of judicial resources." *Carroll v. Nakatani*, 342
21 F.3d 934, 945 (9th Cir. 2003). A motion for reconsideration may not be used to

1 raise arguments or present evidence for the first time when they could reasonably
2 have been raised earlier in the litigation."). *Kona Enterprises, Inc. v. Estate of*
3 *Bishop*, 229 F.3d 877, 890 (9th Cir. 2000).

4 Defendant ICD does not set forth arguments for why reconsideration is
5 appropriate under the above-articulated standard. ECF No. 21. Rather, ICD seeks
6 "clarification" regarding a host of issues pertaining to the logistics and procedure to
7 be utilized in an eventual trial in this consolidated case. *Id.* at 4–5. Alternatively,
8 and without offering any legal authority to support the request, ICD seeks
9 consolidation of the cases for discovery purposes only and bifurcation of the
10 separate Plaintiffs' cases for trial. *Id.* at 6.

11 Plaintiff Bedrock responds that ICD's logistical concerns about how the
12 parties will present their respective claims and defenses at trial do not constitute
13 error warranting reconsideration and, instead, can be "worked out" between counsel
14 and the Court before the trial date. ECF No. 2 at 3–4. Bedrock further argues the
15 Court already considered, in granting consolidation, the reasoning offered by ICD to
16 argue for the bifurcation of trials. *Id.* at 4–5.

17 As noted above, ICD did not file any reply addressing Bedrock's arguments
18 against reconsideration.

19 The Court finds no basis to reconsider its Order Granting Plaintiff's Motion to
20 Consolidate; none of the factors supporting reconsideration is satisfied. *See Sch.*
21 *Dist. No. 1J*, 5 F.3d at 1263. Moreover, the Court notes that the parties have

1 stipulated to a stay of this matter pending completion of an investigation by the
2 United States Bureau of Reclamation. ECF No. 23. The Court will grant the stay by
3 separate Order and, once that stay is lifted, will set a conference with the parties to
4 identify sufficient procedures and proceedings to address the scheduling and
5 substantive needs of this case.

6 Accordingly, **IT IS HEREBY ORDERED** that Defendant ICD's Motion for
7 Reconsideration, **ECF No. 21**, is **DENIED**.

8 **IT IS SO ORDERED.** The District Court Clerk is directed to enter this
9 Order and provide copies to counsel.

10 **DATED** September 30, 2020.

11 _____
12 *s/ Rosanna Malouf Peterson*
13 ROSANNA MALOUF PETERSON
14 United States District Judge
15
16
17
18
19
20
21